

REMARKS

By this Amendment, Figures 1A and 1B have been labeled with the “Prior Art” legend and the specification has been amended per the requests of the outstanding Office Action and claims 1, 7, 8, 13, 17, 23, 24 and 29 have been amended in accordance with the suggestions of the outstanding Office Action. Claims 1-34 are pending and claims 33-34 have been withdrawn from consideration.

Claims 7, 8, 13, 23, 24 and 29 were rejected under 35 USC § 112, first paragraph, as failing to comply with enablement requirement. Applicants submit that those claims have been amended to recite “bit” instead of “symbol.” Support for these amendments may be found in the specification generally and particularly for claim 7 at page 15, line 2 of the specification, claim 8 at page 15, line 3 and claim 13 at page 11, lines 9-11. Applicants submit that these amendments overcome the rejection under 112, first paragraph, of claims 7, 8, 13, 23, 24 and 29.

The Office Action also rejected claims 17-32 under 35 U.S.C. 112, first paragraph, asserting that the recitations “means for” are not supported by the description. Applicants traverse the rejection because “means for determining the coherence time” is adequately disclosed in Applicants’ specification at page 10, lines 15-16, “means for detecting the data transfer delay requirements” is adequately supported at Applicants’ specification at page 9, lines 21-23, “means for selecting an interleaving depth” disclosed by Applicants’ specification at page 11, lines 23-24, “means for detecting the radio channel quality” disclosed by Applicants’ specification at page 9, lines 23-24, and “means for selecting at least another antenna” adequately disclosed by Applicants’ specification at page 11, line 29. Further, Applicants’ specification discloses, as page 12, lines 7-15 and page 17, lines 3-5 that the invention can be implemented by hardware or by software. Further, the “means for adding” of claim 25 is sufficiently disclosed in paragraphs 0038 and 0039 of the specification. With regard to the recited “means for signaling the used interleaved depth, Applicant submits that claims 26 and 27 were originally included in the specification, with the reference numeral 238 (also referred to in paragraph 0039), and as such, are part of the originally filed application (which includes all claims). Therefore, the specification provides that support, which is sufficient under 35 U.S.C. 112, sixth paragraph.

Additionally, Applicants note that the reference to Ex parte Klumb, which was repeatedly referred to by the Office Action, is incorrect. That case stands for the proposition

that a “means” must be defined with its corresponding function either preceding the term, i.e., “fastening means,” or following the term, i.e., “means for fastening.” However, that case does not require that a “means” be defined in both manners. In fact, the requirements of 112, sixth paragraph, when analyzed in the Manual of Examining Procedure, require that when a particular means’ function is not defined in the language that follows the term “means,” (i.e., “means for latching”) then the words which precede the term “means” must convey the function to be performed by the means.

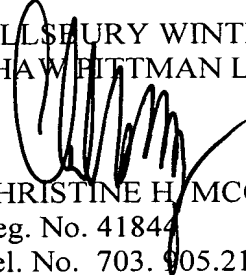
Therefore, the claimed “coherence time means for determining a radio channel coherence time”, “transfer delay means for detecting a data transfer delay requirement,” “interleaving selection means for selecting an interleaving depth using the radio channel coherence time and the data transfer delay as decisive parameters,” “quality means for detecting a radio channel quality requirement according to the user and system information,” and “antenna diversity selection means for selecting at least one transmit diversity antenna besides the main antenna,” clearly define the required function of the claimed means. Thus, the rejected claims are in full compliance with 35 U.S.C. 112, sixth paragraph, and the rejection is traversed.

All rejections and objections have been addressed. It is respectfully submitted that the present application is now in condition for allowance, and a notice to that effect is earnestly solicited. Should there be any questions or concerns regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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IN THE DRAWINGS:

Please replace Figs. 1A and 1B with the attached replacement sheets which include those figures amended to include the “Prior Art” legend.